

PUBLIC NOTICE
DEPARTMENT OF LABOR
PROPOSED AMENDMENTS TO THE ALIEN LABOR RULES AND REGULATIONS

INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS: The Secretary of Labor intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedures Act, 1 CMC §9104(a). The Secretary of Labor intends to adopt them as permanent, and hereby gives at least 30 days' notice of this intent. (*Id.*) The Regulations would become effective 10 days after adoption. (1 CMC §9105(b))

AUTHORITY: The Secretary of Labor is authorized to promulgate regulations pursuant to 3 CMC §4424(a)(1).

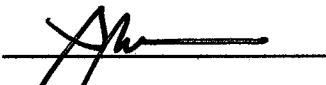
THE TERMS AND SUBSTANCE: These regulations amend the current Alien Labor Rules and Regulations to implement recommendations of the Public Auditor, to implement the Resident Workers Fair Compensation Act, and to further regulate termination transfers of nonresident workers from one employer to another employer.

THE SUBJECTS AND ISSUES INVOLVED: These regulations implement a study done by the Office of Public Auditor with respect to jobs that should be filled by citizens and permanent residents. These regulations also implement the Resident Workers Fair Compensation Act. These regulations are promulgated to: (1) Change the provision with respect to job descriptions so that only O-NET may be used; (2) Implement the Office of Public Auditor's Job Study Report dated May 31, 2007 with respect to jobs that can be filled by citizens and resident workers; (3) Implement the Resident Workers Fair Compensation Act, 4 CMC §9501 et. Seq.; and (4) Further regulate expiration transfers by requiring a conditional grant of transfer to ensure employer responsibility for each nonresident worker remaining in the Commonwealth.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC §9102(a)(1)) and notice shall be posted in convenient places in the Civic Center and local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC §9104(a)(1)).

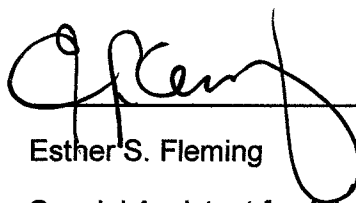
TO PROVIDE COMMENTS: Send or deliver your comments to Secretary Gil M. San Nicolas, Department of Labor, Afetna Square Building, 2nd floor, San Antonio, Saipan, MP 96950 or fax 670-236-0992. Comments are due 30 days after this notice is published in the Commonwealth Register. Please submit your data, views or arguments. (1 CMC §9104(a)(2))

Submitted by:


Gil M. San Nicolas
Secretary of Labor

09/13/07
Date

Received by:



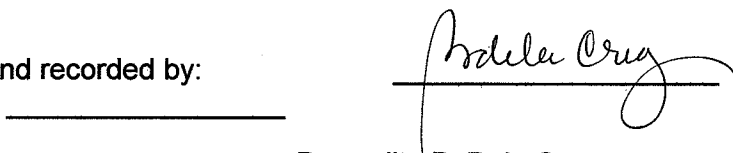
Esther S. Fleming

Special Assistant for Administration

9/17/07

Date

Filed and recorded by:



Bernadita B. Dela Cruz

Commonwealth Registrar

9.14.07

Date

Pursuant to 1 CMC §2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC §9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC §2153(f) (publication of rules and regulations).

Dated the 17th day of September, 2007



Matthew T. Gregory

Attorney General

NOTISIAN PUBLIKU

DIPATTAMENTON I HOTNALERU

MAN MAPROPONE NA AMENDASION SIHA PARA I AREKLAMENTO YAN REGULASION SIHA PARA I HOTNALERUN ESTRANGHERU SIHA

MA'INTENSIONA NA AKSION PARA U MA'ADOPTA ESTE MAN MAPROPONE NA REGULASION SIHA: I Sekretarion I Hotnaleru a intensiona para u adopta kumo petmanente na regulasion siha i man che'che'ton na Regulasion siha ni man Mapropone, sigun i maneran i Akton i Areklamenton i Atministrasion, 1 CMC Seksiona 9104 (a). I Sekretarion I Hotnaleru a intensiona para u adopta i regulasion siha kumo petmanente, ya este na momento man nanâ'i' pot-lo-menos trenta (30) diha siha na notisia pot este na intension. (*id.*) Siempre i Regulasion siha man efektibu dies (10) diha siha despues di i inadoptasion. (1 CMC Seksiona 9105 (b))

ATURIDAT: I Sekretarion I Hotnaleru ma'aturisa para u establesi regulasion siha sigun i lai 3 CMC Seksiona 4424(a)(1).


I SUSTANSIAN I PALABRA SIHA: Este na regulasion siha a amenda i man presente na Areklamento yan Regulasion siha para i Hotnalerun Estrangheru para u matutuhon i Resident Workers Fair Compensation Act sigun i rekomendasion i Public Auditor, ya para u gubietna i transferin i tetminasion i hotnalerun estrangheru siha ginen un emplehu esta otu emplehu.

I ASUNTO SIHA NI TINETEK: Este na regulasion siha a na guaha studio ginen i Ofisinin i Public Auditor pot i che'cho' siha ni debi di u fan ma'akupa ni i siudadanu yan petmanente na residente siha. Este na regulasion siha a na guaha lakkue i Resident Workers Fair Act. Man ma'establesi este na regulasion siha para u: (1) tulaika i probension pot i diskripsion i che'cho' kosake i O-NET ha' solamente sifia ma'usa; (2) matutuhon i Ripot i Public Auditor pot Estudion Cho'cho' ni mafecha Mâyu 31, 2007 pot para i che'cho' ni sifia man ma'akupa ni i siudadanu yan hotnalerun residente siha; (3) Matutuhon i Resident Workers Fair Compensation Act, 4 CMC Seksiona 9501 et.seq.; yan (4) mamaneha mâs i uttimon i transferi siha ni marekomenda i masedin i transferi pot para u asigura i man empleleha responsiblidat para kada hotnalerun estrangheru ni man gagaige gi hâlom Commonwealth.

DIREKSION PARA U MAPOLU YAN MAPUBLIKA: Este Man Mapropone na Regulasion siempre man mapupblika gi Rehistran i Commonwealth gi seksionan i man mapropone yan nuebu na inadoption regulasion siha (1 CMC Seksiona 9102 (a)(1)) ya u fan mapega gi tapbleru gi man kombiniente na lugât siha gi Civic Center yan ofisinin i gubietnamento siha gi kada distritum senadot, todû i dos Engles yan prisipât na lengguâhen natibu. (1 CMC Seksiona 9104(a)(1).

PARA U MAPRBENTYI OPINION SIHA: Na hanâgue osino entrega I opinion siha guatu gi Sekretário as Gil M. San Nicolas, gi Dipattamenton I Hotnaleru, gi Afetna Square Building, gi mina dos bibienda, gi San Antonio, giya Saipan MP 96950 osino fax gi numiru 670-236-0992. Man uttimo I opinion siha trenta (30) diha siha despues de mapupblika este na notisia gi Rehistran I Commonwealth. Pot fabot entrega hâlom I infotmasion, opinion osino testamonion kinontra siha. (I CMC Seksiona 9104(a)(2)).

Ninahâlom as:


Gil M. San Nicolas
Sekretário I Hotnaleru

09/13/07

Fecha

Maresibe' as:


Esther S. Fleming
Epesiât Na Ayudante Para I Atministrasion

9/14/07

Fecha

Pinelo' yan
Marikot as:


Bernadita B. Dela Cruz
Rehistran I Commonwealth

9-14-07

Fecha

Sigun I lai 1 CMC Seksiona 2153(e) (I inapruetan I Abugâdu Henerât pot I regulasion siha para u ma'establesi pot para u fotma) yan 1 CMC Seksiona 9104(a)(3)(u ma'aprueba ni Abugâdu Henerât) I man mapropone na regulasion siha ni man che'che'ton guine esta man ma'ina yan ma'aprueba pot para u fotma yan ligât suficiente ginen I Abugâdu Henerât I CNMI ya debi di u mapupblika, lai 1 CMC Seksiona 2153 (f)(publikasion I areklamento yan regulasion siha.)

Mafecha este gi mina _____ na diha gi Septiembre, 2007.

Matthew T. Gregory
Abugâdu Henerât

**ARONGOL TOULAP
BWULASIYOOL LABOR
POMWOL LLIWEL KKAAL NGÁLI ALLÉGHÚL LABOR**

AGHIYEGH EBWE FILLÓÓY POMWOL ALLÉGH KKAAL: Samwoolul Labor e mángi ebwe schéschéél fillóóy allégh kka e appasch, sáangi mwóghutul Administrative Procedure Act, 1 CMC Tálil 9104(a). Samwoolul Labor e mángi ebwe schéschéél fillóóy, me ekke isisiwow eliigh (30) ráálil arong ye e aghieyghi. (Id.) Allégh kkaal ebwe schéschéél alléghéló llól seigh (10) ráálil mwiril schagh yaar fillóóy. (1 CMC Tálil 9105(b))

BWÁNGIL: Samwoolul Labor nge eyoor bwángil ebwe akkaté (promulgate) allégh kkaal bwelle reel 3 CMC Tálil 4424(a)(1).


AWEEWEL ME KKPASAL: Allégh kkaal ebwe ssiweli Alléghúl Alien Labor (schóóy angaang kka aramasal lúghúl) bwelle ebwe atotoolong aghieyghil Public Auditor, ebwe ayoor Resident Workers Fair Compensation Act, me rebwe sóbweey alusul nonresident workers sáangi samwoolul mwet ngáli escháy samwool.

KKPASAL ME AWEEWEE KKA E TOOLONG: Allégh kkaal nge Bwulasiyool Public Auditor ebwe bwungúw fischí angaang kka toulap me permanent resident rebwe yááli. Allégh kkaal ebwal ayoor Resident Workers Fair Compensation Act, E fféérlo allégh kkaal bwelle : (1) Ssiweli aweweel job descriptions bwelle O-NET schagh emmwel ebwe yááli; (2) Yááli report ye e toowow mereel Bwulasiyool Public Auditor llól May (Ghúúw) 31, 2007 bwelle reel aweweel tappal angaang ye citizens me schóóy lúghúl emmwel rebwe fillong llól; (3) Ayoor Resident Workers Fair Compensation Act, 4 CMC Tálil 9501 et seq.; me (4) sóbwósóbw alléghúl termination transfer ngáre schagh re mweiti ngáli aweweel transfer reel ebwe fíat yaar schóóy attarabwagho lernelem ngáliir nonresident worker ikka relo llól Commonwealth.

AFALAFAL REEL AMMWELIL ME AKKATÉÉL: Pomwol Allégh kkaal ebwe akkatéélong Commonwealth Register llól tálil pomwol yeel me allégh kka e ffé ikka re fillóóy (1 CMC Tálil 9102(a)(1)) me akkaté yeel ebwe appasch igha e fil meiyé mellól Civic Center me bwulasiyool gobenno kkaal me bwal llól senatorial district, ii me eluuw reel English Refalúwasch/Remeraalis. (1 CMC Tálil 9104 (a)(1)).

ISISILONGOL AGHIYEGH: Afanga me ngare bwughíiló yóómw ischíl mángemáng reel Samwoolul Labor, Gil M. San Nicolas, Afetna Square Building, aruwowal pwo, Ghafetiya, Seipél, MP 96950 me fax reel 670-236-0992. Aingiing ebwe atotoolong ótol eliigh (30) ráálil ngáre schagh arong yeel aa akkatééló llól Commonwealth Register. Ów isisilong yáámi mwuschel. (1 CMC Tálil 9104(a)(2))

Isaliyallong:

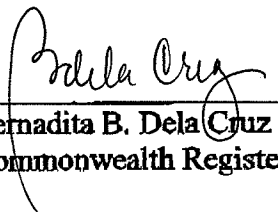

Gil M. San Nicolas
Samwoolul Labor

09/13/07
Rál

Mwir sáangi:


Esther S. Fleming
Sow Alillisil Sow Lemelero9/17/07
Rál

Ammwel sáangi:


Bernadita B. Dela Cruz
Commonwealth Register9-14-07
Rál

Sáangi allégh ye 1 CMC Talil 2153(e) (alúghúlúgh mereel sów bwungul allógh Lapalap reel allégh kkaal) me 1 CMC Tálil 9104(a)(3) (bweibogh alúghúlúgh mereel sów bwungul allégh lapalap) pomwol allégh kka e appasch nge raa takkal amweri fischí me allégheló mereel CNMI Sów Bwungul Allégh Lapalap me ebwe akkatéeló, 1 CMC Talil 2153(f) (akkateel allegh kkaal.

Ráálil ye ____ Ilól Maan, 2007

Matthew T. Gregory
Sów Bwungul Allegh Lapalap

PREFACE

The proposed changes are as follows:

<u>Page</u>	<u>Section</u>	<u>Change</u>
1	II(A)(1)(a)	Use of O-NET as recommended by the Public Auditor
4	II(A)(3)(a)	Use of O-NET as recommended by the Public Auditor
3	II(A)(1)(h) the	Reserving jobs for citizens and permanent residents as recommended by Public Auditor
5	II(A)(3)(g)	Implementing the Resident Workers Fair Compensation Act
41	IV(A)(4) workers prior to	Requiring a conditional grant of transfer to employ nonresident an expiration transfer

Section II(A)(1)(a) Revised provision

- a. An employer who intends to hire a Nonresident Worker to fill a vacant position must report the job vacancy to the Division of Employment Services for review. Job position descriptions shall be defined by the O-NET.

Section IIA)(3)(a) Revised provision

- a. All Job Vacancy Announcement job qualifications shall be based on the O-NET. No arbitrary qualifications shall be imposed.

Section II(A)(1)(h) New provision

- h. Job vacancy announcements will be accepted by the Division of Employment Services and Training for the following positions, however until further notice no finding will be issued that a resident worker is not available. A study by the Office of Public Auditor has determined that sufficient resident workers are available in these job categories, and the Division relies on that determination until the Public Auditor or the Department of Labor may find to the contrary.

- i. Bus driver, transit, school, intercity
- ii. Cashier
- iii. Courier and messengers
- iv. Motorboat operator
- v. Receptionist and information clerk
- vi. Security guard
- vii. Service station attendant
- viii. Ship and boat captain
- ix. Stock clerk, sales floor, stockroom, warehouse, storage yard
- x. Taxi driver and chauffeur
- xi. Truck driver, light or delivery service

For the following positions no finding will be issued that a resident worker is not available unless a resident worker is currently being trained by the employer to fill such a position but has not yet completed the necessary training or the employer is currently participating in a program sponsored by the Northern Marianas College, the Workforce Investment Agency, or the Office of Vocational Rehabilitation to train prospective employees to fill such a position:

- xii. Hotel, motel, and resort desk clerk
- xiii. Human resource manager
- xiv. Bookkeeping, accounting, and auditing clerk

- xv. Administrative assistant
- xvi. Secretary (except medical, legal, and executive)
- xvii. Tour guide and escort

Section II(A)(3)(g) New provision

g. Compliance with Resident Workers Fair Compensation Act, 4 CMC §9501 et seq. Each benefit given by an employer to nonresident workers paid at a particular wage rate must also be given to the employer's citizen and permanent resident employees paid at the same wage rate. The benefit may be given either by in-kind equivalent or by net cash equivalent. Each job vacancy announcement must contain information for citizen and permanent resident applicants informing them of any in-kind benefits or net cash equivalents available to them. An employer may provide a benefit to a nonresident worker in-kind or in cash at the option of the employer. An employer must provide a benefit to a citizen or permanent resident employee in-kind or in cash equivalent at the option of the employee.

i. Housing benefits.

If an employer provides housing for any nonresident worker holding a job with a wage rate at the minimum wage applicable in the Commonwealth, the cash equivalent for a citizen or permanent resident employee holding a job at the same wage rate shall be \$100.00 per month and the net cash equivalent shall be \$100.00 per month less any regular, documented deduction from the wages of the nonresident worker receiving the housing benefit.

If an employer provides housing for any nonresident worker holding a job with a wage rate at more than the minimum wage applicable in the Commonwealth but less than 200% of that minimum wage, the cash equivalent for a citizen or permanent resident holding a job at the same wage rate shall be \$300 per month, and the net cash equivalent shall be \$300.00 per month less any regular, documented deduction from the wages of the nonresident worker receiving the housing benefit.

If an employer provides housing for any nonresident worker holding a job with a wage rate of more than 200% of the minimum wage applicable in the Commonwealth, the cash equivalent for a citizen or permanent resident employee holding a job at the same wage rate shall be the fair market monthly rental value, and the net cash equivalent shall be the fair market monthly rental value less any regular, documented deduction from the wages of the nonresident worker receiving the housing benefit.

ii. Food benefits.

If an employer provides meals for any nonresident worker holding a job with a wage rate at the minimum wage applicable in the Commonwealth, the cash equivalent for a citizen or permanent resident employee holding a job at the same wage rate shall be \$2.00 per meal and the net cash equivalent shall be \$2.00 per meal less any regular, documented deduction from the wages of the nonresident worker receiving the food benefit.

If an employer provides meals for any nonresident worker holding a job with a wage rate at more than the minimum wage applicable in the Commonwealth but less than 200% of that minimum wage, the cash equivalent for a citizen or permanent resident holding a job at the same wage rate shall be \$4.00 per meal, and the net cash equivalent shall be \$4.00 per meal less any regular, documented deduction from the wages of the nonresident worker receiving the food benefit.

If an employer provides meals for any nonresident worker holding a job with a wage rate at more than 200% of the minimum wage applicable in the Commonwealth, the cash equivalent for a citizen or permanent resident holding a job at the same wage rate shall be the average fair market value per meal less any regular, documented deduction from the wages of the nonresident worker receiving the food benefit.

- iii. Local transportation benefits. If an employer provides local transportation for any foreign worker, the cash equivalent for a citizen or permanent resident employee shall be \$2.00 per day and the net cash equivalent shall be \$2.00 per day less any regular, documented deduction from the wages of the nonresident worker receiving the transportation benefit.
- iv. Medical benefits. An employer is required to meet certain medical expenses for each foreign worker. The employer shall provide each citizen or permanent resident employee with the same or equivalent medical insurance coverage as provided for any foreign worker or shall pay to the citizen or permanent resident employee \$42.00 per month as the net cash equivalent at the option of the employer.
- v. Other benefits. If an employer provides other benefits for any nonresident worker, such as utilities (gas, electric, water) for personal use, the cash equivalent for a citizen or permanent resident employee holding a job at the same wage rate shall be the fair market value of the benefit, and the net cash equivalent shall be the fair market value less any regular, documented deduction from the wages of the nonresident worker receiving the benefit.

Section IV(A)(4) Revised provision

4. An employer must comply with Sections II.A. and II.B. of these regulations, and submit the necessary documentation for a Conditional Grant of Transfer with the application for Transfer, to employ a transferring nonresident worker.